

[REDACTED]
[REDACTED]
[REDACTED]
FEB 21 1986

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated under the laws of the State of [REDACTED] on [REDACTED].

Your general purpose is to provide for the maintenance and preservation of the common areas; to promote the health, safety and welfare of the residents; and, to enforce the covenants, conditions, and restrictions of the residential conditions of [REDACTED].

Every person or entity who is a record owner of a lot shall be a member of the association. Your By-laws and Declaration of Covenants provide that the common areas are the properties owned by the association for the common use and enjoyment of the members of the association. Your Declaration of covenants states that, "Every owner shall have a right and easement of use and enjoyment in and to the common area which shall be appurtenant to and shall pass with the title to every lot..." The common areas owned and maintained by your association include common utilities; portions of streets not dedicated to [REDACTED]; drive-ways; walkways; parking areas; community areas and the like. You state that use of the common areas is restricted to members of the association.

Your income is from member dues and interest. Expenses are for lawn and tree maintenance, sidewalk repairs, and operating expenses.

Section 501(c)(4) of the Code provides for the recognition of exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(1) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this Section is one which is operated for the purpose of bringing about civic betterments and social improvements.

EO: 2/4/86

| Code | Initiator | Reviewer | Reviewer | Reviewer | Reviewer | Reviewer | Reviewer |
|---------|-----------|------------|------------|----------|----------|----------|----------|
| Surname | | [REDACTED] | [REDACTED] | | | | |
| Date | | 2/14/86 | 2/21/86 | | | | |

Revenue Ruling 72-102, 1972-1 C.B., page 149, states that a non-profit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks and common areas for use of the residents is exempt under Section 501(c)(4) of the Code. Membership is required of all owners of real property in the development and assessments are levied to support the organization's activities. It was held that by maintaining the property normally maintained by a municipal government, the organizations served the common good and general welfare of the people of the community.

Revenue Ruling 74-99, 1974-1 C.B., page 131, modified Revenue Ruling 72-102 by stating guidelines under which a homeowners' association could qualify for exemption under Section 501(c)(4) of the Code. These guidelines are:

1. The organization must service a "community" which bears a reasonable, recognizable relationship to an area ordinarily identified as a governmental unit;
2. It must not conduct activities directed to the exterior maintenance or private residences; and
3. The common areas or facilities must be for the use and enjoyment of the general public.

This ruling states that a community, within the meaning of Section 501(c)(4) of the Code and the regulations, "...is not simply an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein."

Revenue Ruling 74-99 states that Revenue Ruling 72-102 "...was intended only to approve ownership and maintenance by a homeowners' association of such areas as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public, as distinguished from controlled use or access restricted to the members of the homeowners' association..."

Your common areas are not open for the use and enjoyment of the general public. All of your activities are conducted for the benefit of members, not for a public purpose. Therefore, you do not qualify for exemption from Federal income tax as an organization described in Section 501(c)(4) of the Code.

Based on the information submitted, exempt status will not be recognized under any related paragraph of Code Section 501(c).

[REDACTED]

Until you have established an exempt status, you are not relieved of the requirement for filing Federal income tax returns.

Your attention is called to Section 528 of the Internal Revenue Code which was added by the Tax Reform Act of 1976. This Section provides that, in certain circumstances, a non-exempt homeowners' association may elect not to be taxed on its "exempt function income" which includes membership dues, fees or assessments from owners of real property. The election is made by filing Form 1120H. If you determine that your organization qualifies under Section 528, you may find it beneficial to make this election.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]

District Director